

**PROPERTY AND RIGHT-OF-WAY COMMITTEE MEETING  
THURSDAY, JULY 19, 2007 – 10:00 AM  
CITY HALL, 8<sup>TH</sup> FLOOR  
COMMISSION CONFERENCE ROOM**

**BOARD MEMBERS PRESENT**

Peter Partington, City Engineer  
Mark Darmanin, Utilities Distribution, and Collections Manager  
Tony Irvine, City Surveyor  
Tom Terrell, Public Works Maintenance Manager  
Anthony Fajardo, Planner II  
Carol Ingold Mordas, Parks Supervisor  
Sharon Miller, Assistant City Attorney

**BOARD MEMBER(S) ABSENT**

Bob Dunckel, Assistant City Attorney III

**STAFF AND GUESTS**

Jeff Modarelli, Director, Economic Development  
Victor Volpi, Senior Real Estate Officer  
Bob Guilford, Engineering Inspector I  
Dennis Girisgen, Engineering  
Skip Margerum, Code Enforcement  
Angela Tukes, Clerk II  
Janie Ambrose, Secretary I  
Robert Lochrie, Ruden McCloskey  
Damon Ricks, Flynn Engineering  
Jeff Falkanger, Architect  
Chris McShane, Applicant  
Travis Woods, Recording Clerk, Prototype Inc.

**CALL TO ORDER**

Mr. Partington called the meeting to order at 10:00 a.m. and stated this was a Committee with the responsibility of advising the City Manager and City Commission on matters connected with City property and public right-of-way.

Following roll call, it was determined that a quorum was present.

**ITEM ONE:**                      **APPROVAL OF MAY 17, 2007 MINUTES (ITEM THREE ONLY)**

ADDRESS OR

GENERAL LOCATION:    Sagamore Road and SE 4 Street, between Federal Highway and SE 8 Avenue and South of E Oakland Park

Mr. Fajardo expressed concern regarding the recording clerk's understanding of the issue discussed and was advised by Mr. Volpi that Ms. Strutt's corrections had been incorporated as indicated. He added if the Committee could still obtain a verbatim transcript if necessary. Discussion continued regarding the Committee's previous concern in approving the minutes based upon the "characterization of the tone of the discussion" and the clarification requested by Ms. Strutt.

Mr. Modarelli advised that the minutes are digitally recorded, verbatim minutes are not generally provided, and suggested that the Committee could listen to the audio in lieu of a verbatim transcript.

Mr. Darmanin stated that language in the minutes had been omitted from the current draft provided which would "soften or harden" the impression by DRC from what the Committee had intended.

Although Mr. Terrell indicated that a verbatim transcript had been requested, Mr. Partington felt if the corrected minutes were okay, the verbatim would not be necessary. Mr. Irvine agreed that he wanted the verbatim as he could not remember the details of the meeting.

**Motion** made by Mr. Darmanin, seconded by Mr. Terrell to approve the minutes of the May 17, 2007 meeting. In a voice vote, the motion failed 3-4.

Mr. Modarelli indicated that the Committee could listen to the digital audio and in the future, they can play the entire audio in lieu of incurring the time and expenses involved in a verbatim transcript.

In response to Mr. Irvine's suggestion, Mr. Darmanin agreed to amend his motion for the members to be polled or reconvene to vote on this matter prior to the next meeting. Ms. Miller pointed out that that would require the meeting be publicly noticed and recorded.

**Motion** made by Mr. Darmanin, seconded by Ms. Miller, that this matter be tabled and those who wish to review the digital version of the meeting minutes and compare them to the written version of the meeting minutes may do so, with the Committee to reconvene on July 26, 2007 for the purpose of voting on the May 17, 2007 minutes. In a voice vote, the motion passed unanimously.

**ITEM TWO: APPROVAL OF JUNE 21, 2007 MINUTES**

Mr. Fajardo stated that the minutes reflect he was opposed to Item 6, Vacation of Southwest 3 Avenue, but did not state his reason. It was requested the following language be provided: "Mr. Fajardo had indicated that while the project had some interesting aspects, more review was required before planning could support the project, and therefore he could not support it at this point in time."

**Motion** made by Mr. Darmanin, seconded by Mr. Terrell, to approve the June 21, 2007 minutes with the requested addition. In a voice vote, the motion passed unanimously.

**ITEM THREE:** **VACATION OF A PORTION OF ALLEY (AIR RIGHTS) RBM FAMILY LIMITED PARTNERSHIP, LTD.**

ADDRESS OR  
GENERAL LOCATION: alley between NE 3 and NE 2 Avenue, on NE 5 Steet

EXPLANATION: Number of project units has increased since prior approval recommendation on June 16, 2005; DRC and PZ have requested Committee reexamination of project.

APPEARANCE: Jeff Falkanger, Architect

Mr. Falkanger stated that the plan is as it was two years ago, clarifying the area as an alley easement, not right-of-way. He stated they are requesting air rights for alley clearance and, in addition, as part of the approval would be dedicating an additional ten foot easement so that the public right-of-way would be a full 25 feet. He stated there is a typo on the project application, and the change is actually only an increase of two units. There are no other project changes. The DRC would not schedule this matter until the Right-of-Way Committee had conducted their review. The air rights vacation DRC package has been

submitted. An opinion has been received from City Attorney Stewart that the alleyway is an easement based on the original plat.

Ms. Miller noted that air rights do not attach except to the fact that there is "something on the ground" so perhaps they should be "taking off the entire right-of-way and then putting it back down"; in essence, vacating the right-of-way and then rededicating a portion.

Mr. Darmanin noted there is a sewer in the alleyway, suggesting the terminal manhole be relocated. It was noted there is access and parking along the alleyway also.

Mr. Falkanger stated there had been a question of whether the property constituted two parcels separated by a right-of-way and, subsequent to Mr. Stewart's interpretation, it was determined there were two adjoining pieces of property with a public access easement.

The developer is dedicating another ten feet of alley easement; working north from 4<sup>th</sup> Street to the north there will be 25 feet of alleyway. At the northern end, there will be 15 feet. Access to the garage would be from the south.

Mr. Partington was concerned regarding additional traffic and was advised by Mr. Falkanger that there would be no reason to travel through the unpaved alley as alternate routes were available. Mr. Irvine noted that the extra ten feet of easement was anticipated to handle any additional traffic.

**Motion** made by Mr. Irvine, seconded by Ms. Miller, recommending that the effective vacation of the air rights be contingent upon the relocation of the City's utilities within the alley and an additional ten feet dedicated as an easement, and the paving and treatments applied in both the section of the alley being vacated and the additional easement be installed and maintained by the applicant. In a voice vote, the motion passed (with Mr. Fajardo dissenting, by stating that Planning normally does not support vacation of air rights).

**ITEM FOUR:**

**VACATION OF EASEMENT**

ADDRESS OR

GENERAL LOCATION: 317 NE 3 Street

EXPLANATION:

Damon Ricks, Flynn Engineering, requesting positive recommendation to vacate 4-foot easement controlled by City

APPEARANCE: Damon Ricks, Flynn Engineering

Mr. Ricks explained that the proposed development is an L-shaped lot between 3<sup>rd</sup> and 4<sup>th</sup> Streets, east of 3<sup>rd</sup> Avenue. An existing easement runs north and south servicing a lot to the north owned by GERS. Vacation of the easement is needed to accommodate development of the site to the south. The beneficiary of the easement is the property to the north. An investigation conducted by engineers at Flynn revealed an abandoned pipe; a letter to that effect has been provided.

It was noted that the lateral observed was in the easement running north and south. Mr. Partington pointed out that they are being asked to agree that the lateral is "defunct" on the basis of Flynn's letter; however, he felt further confirmation was needed.

It was determined that GERS (the pension fund – a separate entity from the City) is the party involved, not the City itself. A determination regarding the need of a sanitary sewer line is up to the property owner in this case and should go before the GERS Board.

Thereupon, the vacation request was withdrawn by the applicant.

Item Six was then taken out of order.

**ITEM SIX:**                      **AGREEMENT TO PLACE LOW VOLTAGE  
COMMUNICATION WIRE UNDER RIGHT-OF-WAY**

ADDRESS OR  
GENERAL LOCATION: SW 12 Street, just west of SW 28 Avenue

EXPLANATION: Flynn Engineering requesting recommendation to place four conduits under SW 12 St., west of SW 28 Ave., to allow low voltage communication wire for St. Thomas Aquinas School

APPEARANCE: Damon Ricks, Flynn Engineering

Mr. Lochrie stated that St. Thomas is building a new performing arts center on Davie Boulevard across 12<sup>th</sup> Street from the school and is looking to have available communications between the performing arts center and the school. The existing road is currently under construction due to the Water Works program.

There would be minimal electric current as the lines would be solely for communication purposes.

Mr. Partington stated that normally the City has an issue with allowing privately owned facilities in the right-of-way, as "we're going to lose track of what's there and someone's going to tear it out one day." Mr. Darmanin agreed, asking if inquiry has been made of other local carriers to provide the service. Mr. Terrell suggested wireless communication.

Mr. Partington recommended that the item be withdrawn; however, Mr. Lochrie requested the matter be tabled pending the applicant working out an alternative and possibly withdrawing the request at a future time.

**Motion** made by Mr. Darmanin, seconded by Mr. Terrell, to table Item Six. In a voice vote, the motion passed unanimously.

**ITEM FIVE:**                      **IMPROVEMENTS TO ALLEY**

ADDRESS OR

GENERAL LOCATION:    1208 SW 4 Avenue

EXPLANATION:                Deferred from April 19, 2007 meeting; request by Mr. McShane to pave alleyway abutting his lot.

APPEARANCE:                Chris McShane, Applicant

Mr. McShane was not present.

Mr. Partington reiterated Mr. McShane's intent to pave the entire alley, coinciding with the area adjacent to his property which is paved. It was noted that Mr. McShane would need to obtain an engineering permit. An offer has been made by the City to lime rock and stabilize the alley in its entirety; no offer had been made to create a sub-base for future paving. Mr. Volpi indicated Mr. McShane understands that whatever is placed in the alleyway, his contractor is going to have to pull permits and "get it right" so whatever the City decides to lay, Mr. McShane "will have to deal with it."

Mr. Darmanin asked why they would need to place the rock at all and was advised by Mr. Partington that a previous commitment had been made by City Engineering to rock the alleyway, but whether they are still obliged is debatable. It was suggested by Mr. Darmanin that regardless of the previous remedy, Mr. McShane is offering an alternative for the situation and what the Utilities

Department is willing to do for the Engineering Department “will only add to the aggravation and cost of Mr. McShane’s project.” Mr. Partington indicated he would have what appears to be a private driveway with some area beyond it that which looks to be a continuation of the driveway and creating the possibility for blocking the alley because one part looks like a driveway instead of a public access area. There was debate on Mr. McShane’s agreement to remove the pavers to make the alleyway look uniform unless he was going to continue with the same pavers in the entire alley.

Mr. Girisgen asked if there was a policy for the City to put surfacing on alleys or streets that were not originally surfaced, adding that, to his recollection, previous requests had been declined.

Mr. Partington agreed that has not been the City’s policy, however, in this case, due to previous complaints regarding blocking of the right-of-way, it was decided to surface the area to clarify the availability of public access, heading off the possibility of blocking access in the future. Concern was expressed regarding establishing of a precedent in this case.

Mr. Darmanin pointed out that neighbors had indicated they did not want the rock unless the alleyway was consistent – either all lime rock or all pavers. Mr. Terrell said that Mr. McShane had been instructed to return with an amended agreement with the neighbors and was also supposed to investigate and report to the Committee regarding drainage issues.

Mr. Volpi advised that Mr. McShane had requested this matter be placed back on the agenda, with the City to rock the alley, and that he would “deal with it and pull my permits after that.”

Mr. Irvine believed that, per permit language, any time exotic treatments are placed in a right-of-way, the City has the ability to remove it. Mr. Girisgen said there is no longer a special permit for engineering; it is now a generic building permit. Discussions are ongoing regarding going back to an engineering permit including that language.

**Motion** made by Mr. Darmanin, seconded by Mr. Irvine, to table Item Five until the next meeting, inviting Mr. McShane back to provide the documents which he agreed to provide during his original application to the Committee; and short of that, the City will pursue removal of the bricks, and rock the alleyway.

Discussion on motion:

Mr. Darmanin explained that this item would be tabled and at the next meeting Mr. McShane will have the opportunity to provide the information he was asked to bring to the current meeting. If he fails to do so, then the Committee will proceed to try to find a remedy themselves, which would include removal of the brick pavers from the alleyway.

Information to be provided by Mr. McShane included: 1) investigation of costs, 2) amendment of the application to be agreeable with the neighbors, and 3) drainage and elevation issues. It was noted that the neighbors have not provided any agreement in this regard.

Mr. Partington felt that the motion as stated did not contain enough specifics for the documentation and information expected to be provided by Mr. McShane at the next meeting.

Mr. Darmanian amended his motion to suggest that Mr. McShane bring to the next meeting:

- A proposal for the brick pavers (what type of brick paver he has decided to use)
- An agreement that the brick paver chosen is in agreement with his neighbors who attended the previous meeting and voicing complaints (he was asked to compromise, as long as what he was going to build covering the length of the alley, was agreed to by the neighbors)
- Effects on drainage if using brick pavers; where the water will go

Mr. Partington suggested simplifying the motion to table this matter subject to being considered at the next meeting with a requirement that Mr. McShane having submitted and bring to the meeting his engineering permit application to pave the remainder of the alley. Engineering details could then be submitted to Mr. Girisgen of how Mr. McShane proposes to address the remainder of the alley. If the documents are not submitted and available to the Committee at the next meeting, then the Committee will pursue the remedy of removing the existing pavers. Mr. Girisgen added that he would need a sign-off from Broward County on the surface water, as an impervious material would be laid by Mr. McShane.

Mr. Darmanin agreed to Mr. Partington's suggested amended motion, adding that the surrounding property owners be notified by the City of when this item is placed on the agenda.

Ms. Mordas asked that Mr. McShane be made fully aware that the road rock would not serve as a sub-base.

Mr. Irvine felt the Committee should take action and make their recommendation, and a time limit be set for Mr. McShane. Mr. Terrell felt that Mr. McShane had been already given 30 days, and if he does not respond in the next 30 days, it should be assumed he has abandoned his plan, and the Committee should take action.

**Motion** made by Mr. Darmanin, seconded by Mr. Irvine, to table Item Five to the next meeting and at the next meeting to receive a copy of the engineering permit application to pave the remainder of the alley and that the City notify the neighbors of the next meeting of the Property and Right-of-Way Committee on this issue; and that, if the engineering permit application has not been submitted, the Committee will consider remedies to this issue.

In a voice vote, the motion passed 4-2, as follows: Mr. Darmanin, Mr. Fajardo, Ms. Mordas, and Mr. Terrell - yes; Mr. Irvine and Mr. Partington - no (Ms. Miller was not present during the vote).

Mr. Volpi agreed to advise Mr. McShane of the discussion and decision of the Committee.

There being no further business to come before the Committee the meeting adjourned at 11:36 a.m.